NEW INSTALLATION COMMANDERS AND CHIEFS OF STAFF COURSE

OFFICE OF COUNSEL FOR THE COMMANDANT

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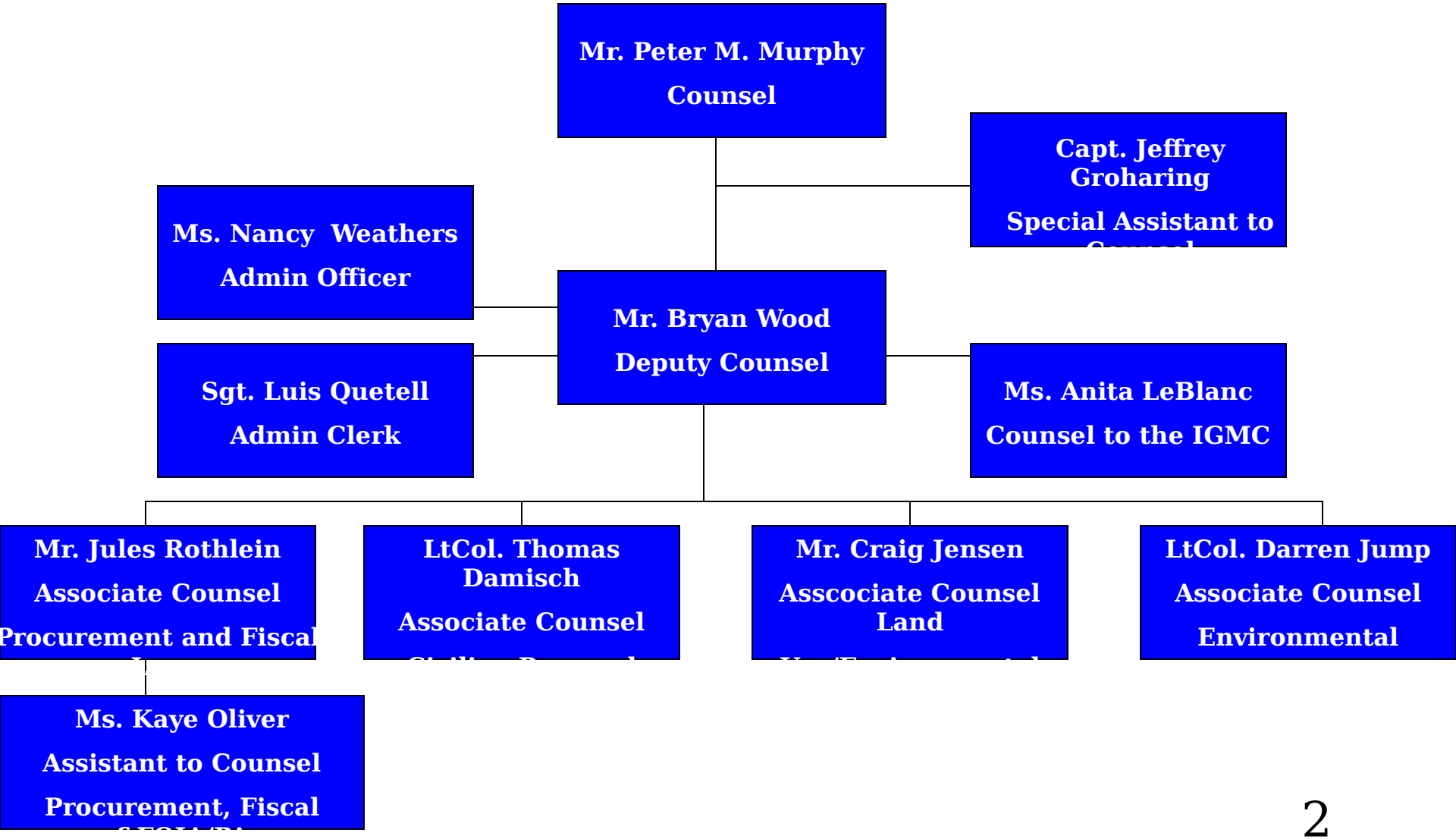
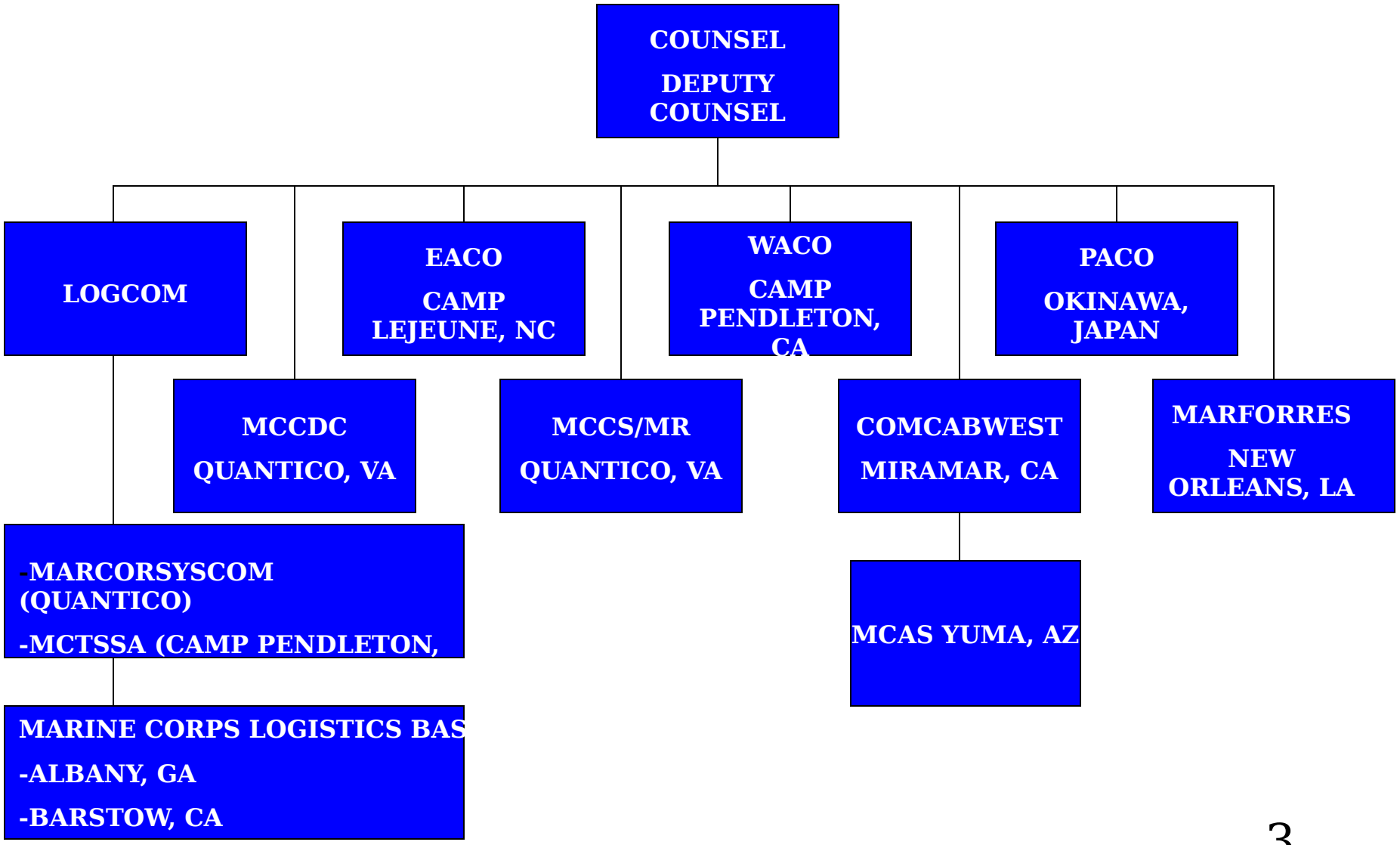
Headquarters



Organization



Topics

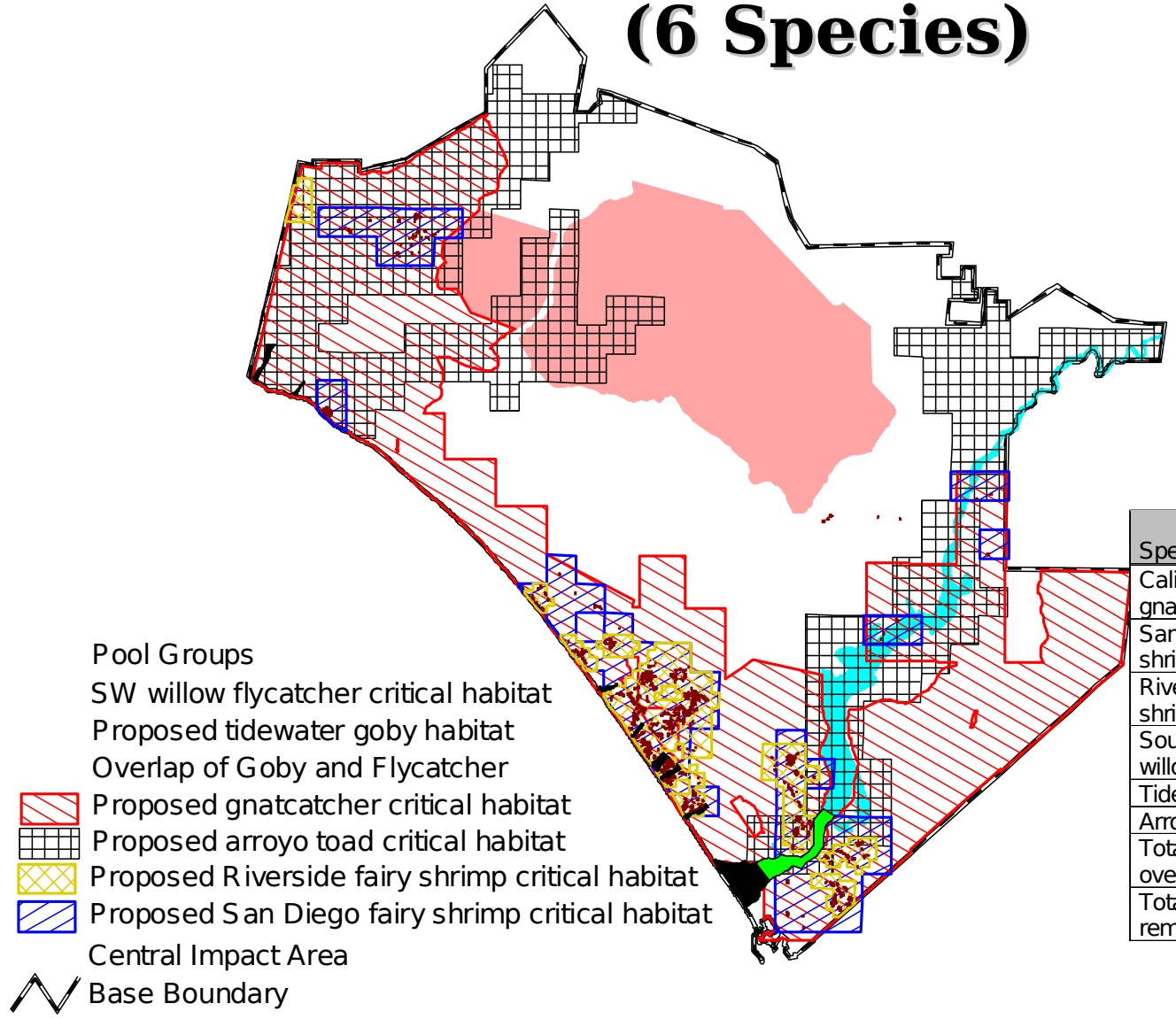
- Land Use and Environmental Law
- Fiscal Law (money, money, money)
- Labor and Employment Issues
- Ethics

Land Use and Environmental Law

- Legislation
- Litigation
- Property Acquisition
- BRAC
- Environmental Compliance

Potential Impact of Critical Habitat Designation at MCB Camp Pendleton (6 Species)

57%


Pool Groups
SW willow flycatcher critical habitat
Proposed tidewater goby habitat
Overlap of Goby and Flycatcher
Proposed gnatcatcher critical habitat
Proposed arroyo toad critical habitat
Proposed Riverside fairy shrimp critical habitat
Proposed San Diego fairy shrimp critical habitat
Central Impact Area
Base Boundary

Species	Approx Acres	% of Base[1]	Acres Occ	% of Base
California gnatcatcher	50,970	41	8000	6
San Diego fairy shrimp	13,090	11	4.5	
Riverside fairy shrimp	5,672	4	2	
Southwestern willow flycatcher	3342	3	144	.1
Tidewater goby	1014	1	131	.1
Arroyo SW toad	38,464	31		
Total (including overlap)	112,552	90		
Total (overlap removed)	70,886	57		

DESERT SCIMITAR

- 1ST MARDIV COMMAND & CONTROL EX
  - **592 VEHICLES & 2700 MARINES**
  - **200 MILES & 450ft EXPEDITIONARY BRIDGING**

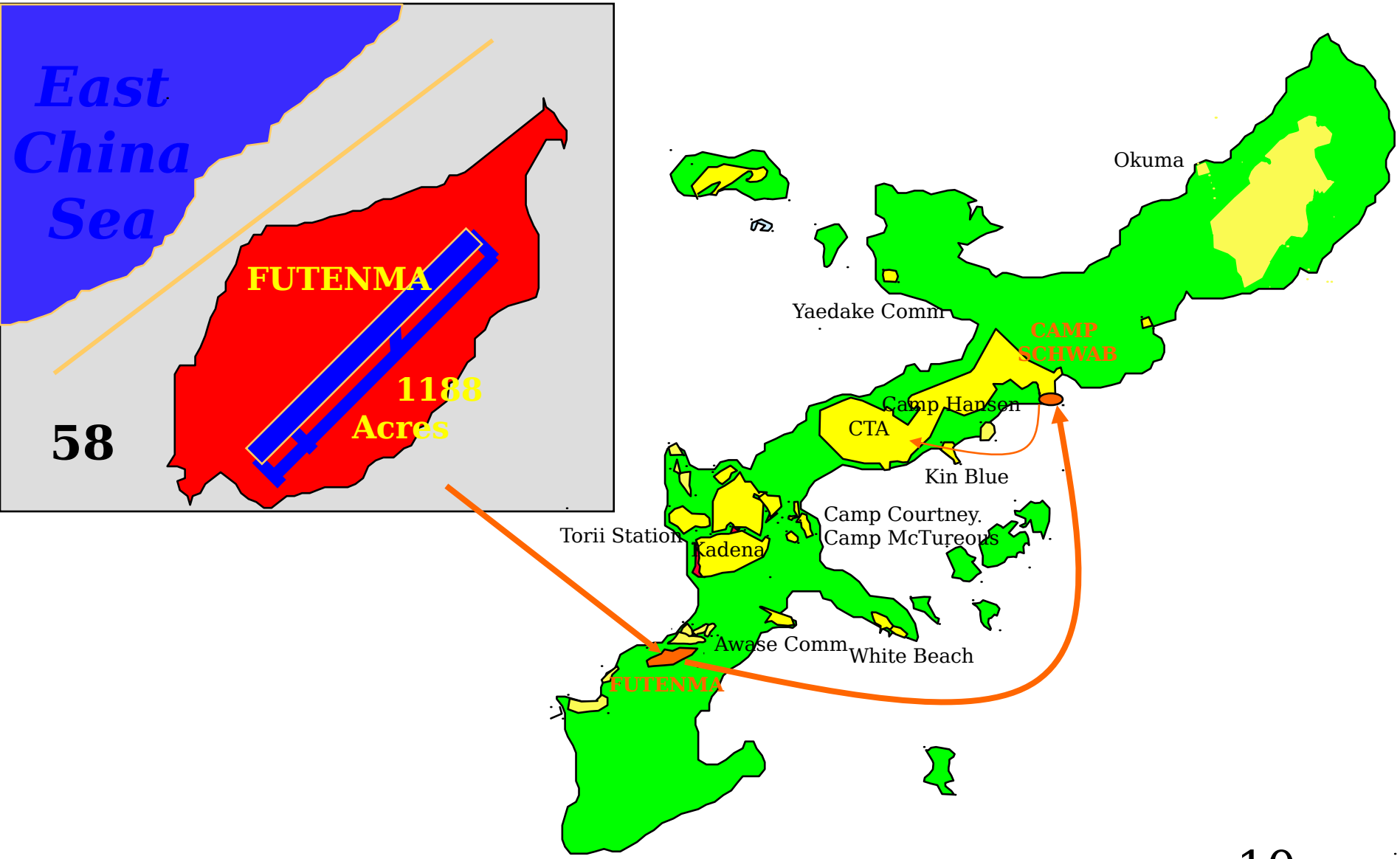
IRAQI FREEDOM

7th Marines Crossing Southern Bridge Into Baghdad

Charlie, 1/7 Crossing “Saddam Canal”

Okinawa Dugong (Dugong dugon)
v. Rumsfeld,
il Action No. C-03-4350(MHP)(N.D.C

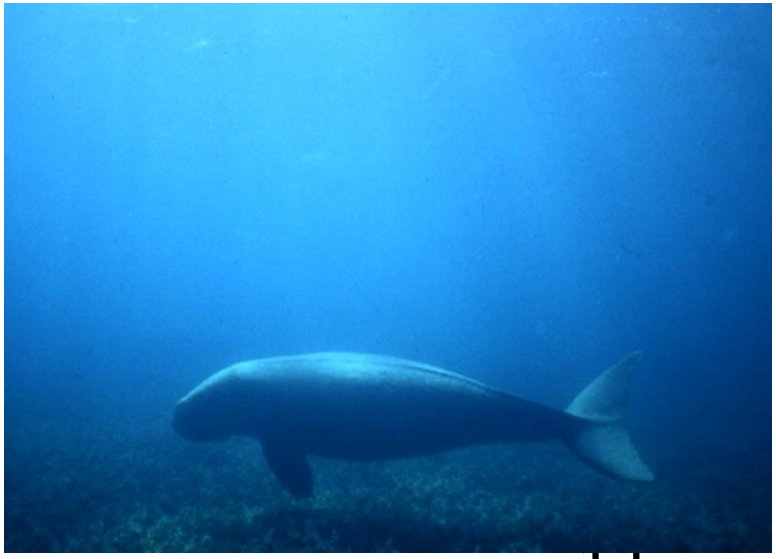
Futenma Air Station



Okinawa Dugong (Dugong dugon) v. Rumsfeld, il Action No. C-03-4350(MHP)(N.D.C

- Plaintiffs represented by Earthjustice.
- Complaint Filed November 2003
- Plaintiffs allege violation of NHPA and APA

- 16 USC §470a-2: prior to the approval of any Federal undertaking outside the United States which may affect a property on the applicable country's equivalent of the National Register, the Federal agency shall take into account the effect of the undertaking on such property for purposes of avoiding and mitigating any adverse effects



Proposed Tejon Ranch Development:

Military Air Space and 21st Century California Development

“Centennial”: A New Community

- Initial “Centennial” development proposal involves 4.3% of 270,000 acre ranch (11,700 acres)
- Beginning in 2006, the 25-year project is envisioned to create a new community with 30,000 jobs
- 23,000 housing units; 14.2 million sq. ft. of non-residential building (four Pentagons)
- Joint venture between Pardee Homes, Lewis Investment, Standard

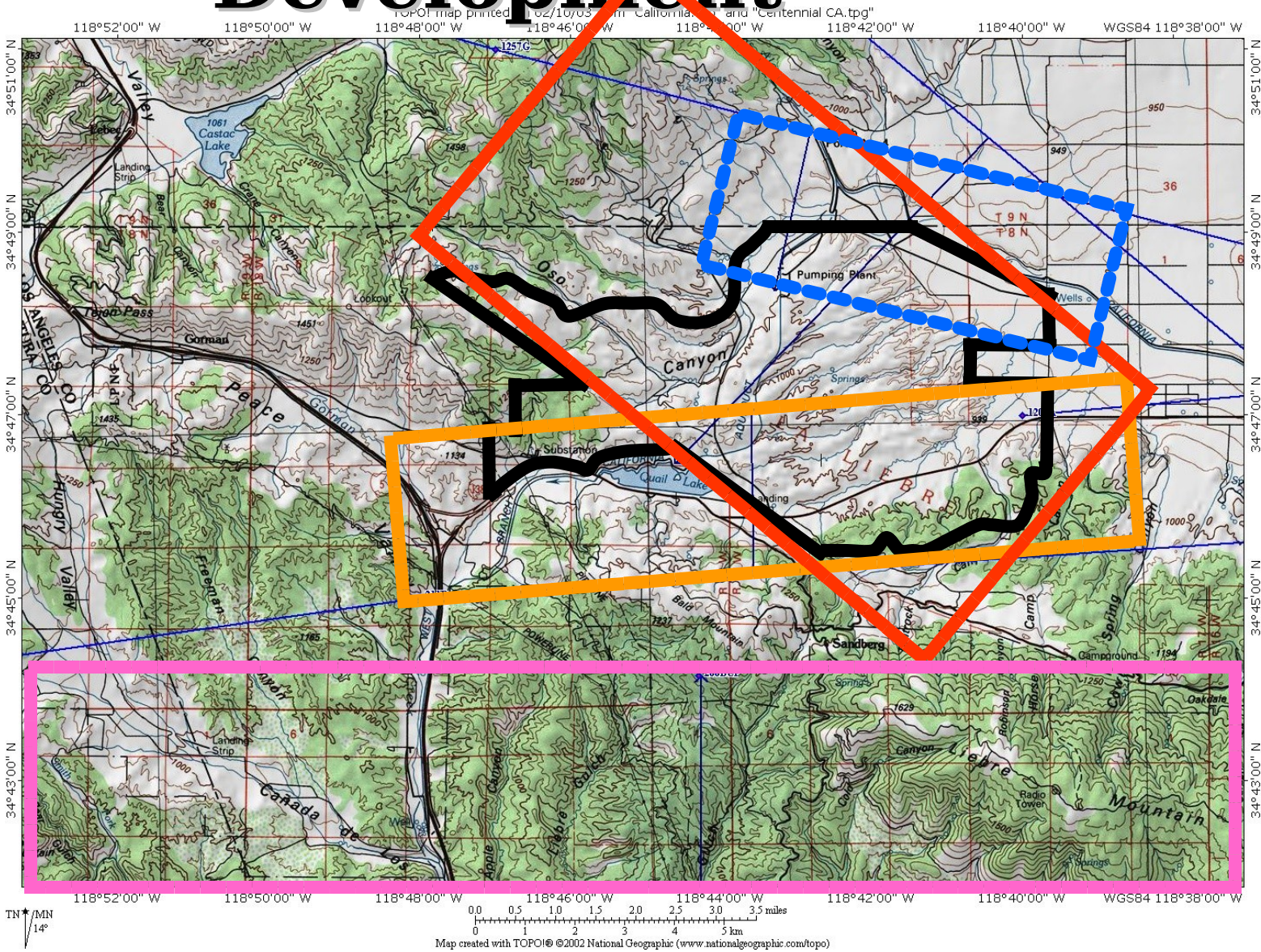
Air Space Conflicts With Proposed Centennial Development

IR 211/VR 1265
USMC
200 AGL floor
4NM WIDTH

VR 1262
NAS Lemoore
200 AGL floor
10NM WIDTH

VR 1257
NAS Lemoore
1000 AGL floor 4NM WIDTH

IR 200
NAVAIR
1100 AGL floor
8NM WIDTH



Vivian’s Island & MCAS Beaufo

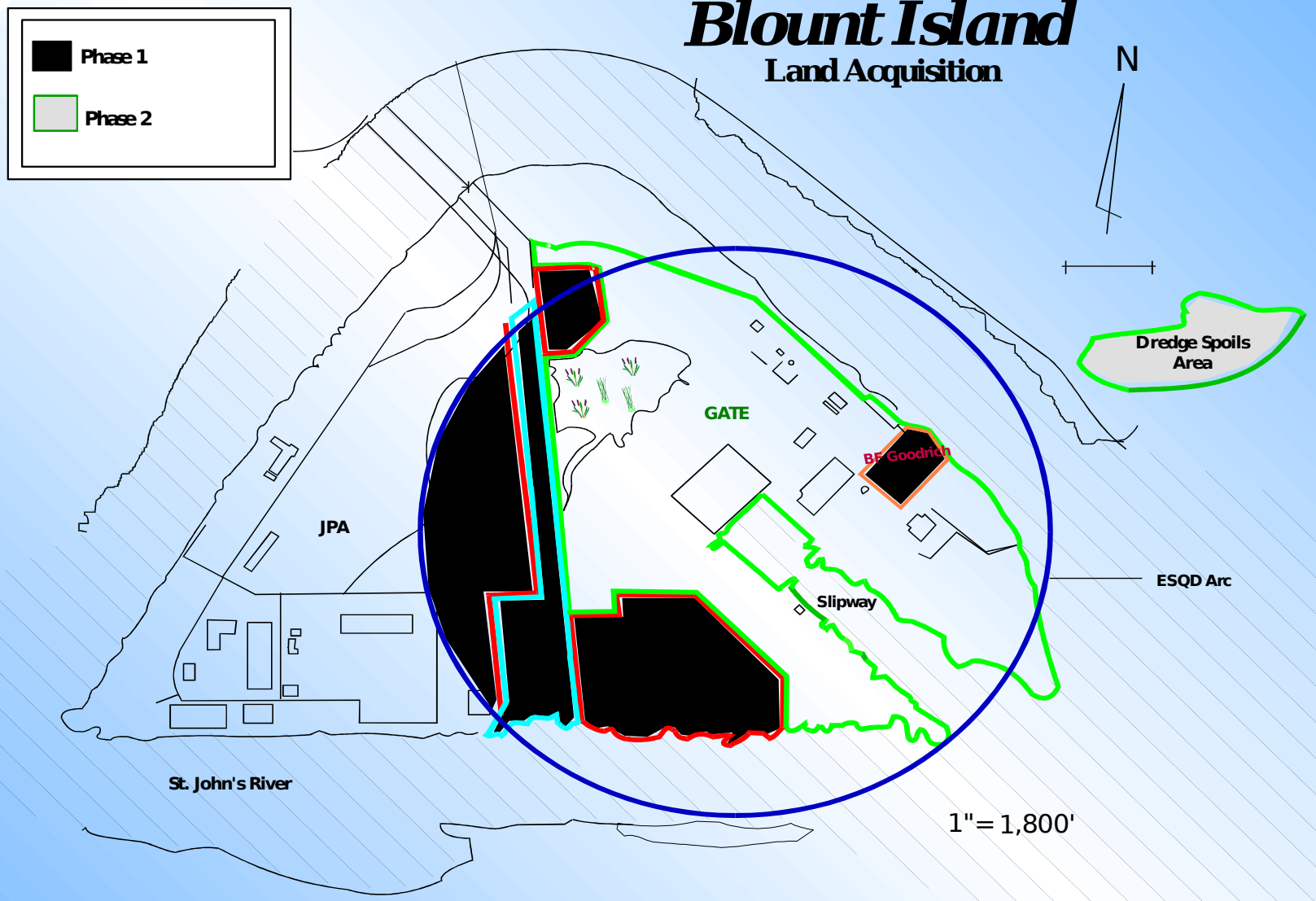
BRANNING AND VIVIAN'S ISLAND

- **BRANNING**
  - **1980 U.S. Ct. Cl. LEXIS 1263**
  - **Decided: 1980**
  - **Held: FCLP pattern at 600' AGL directly over plaintiff's property = taking**
  - **A-4 to F-4**

- **VIVIAN'S ISLAND**
  - **Court of Federal Claims**
  - **Complaint Filed July 2002**
  - **Theory: FCLP pattern at 600' AGL directly over plaintiff's property = taking**
  - **Cecil Field Closure**

Blount Island

Blount Island
Land Acquisition



August 1999

Environmental Compliance

- Camp Lejeune Groundwater
  - ATSDR Survey Released; Study Ongoing
  - Independent Panel appointed by CMC
  - Congressional Interest
  - Claims Over 3B
  - Media Interest/Public Affairs
  - THE STAND

Environmental Compliance

- Defacto Range Closure = Munitions Response = CERCLA
  - Miramar PPV Housing
  - Miramar Ammunition Storage Facility
  - 29 Palms Ammunition Storage Facility
  - Any Other Site where Land Use is or will become Inconsistent with Military Training with Munitions

Fiscal Law and Procurement

- Use of appropriated funds
- Food service contract

Fiscal Law:
Use of Appropriated Funds

- We are seeing an increase in abuse.
- Installation Commanders' need to set the proper atmosphere so people can do the right thing
- Example: Must comply with the Purpose Statute, 31 USC 1301(a). APFs may not generally be used for personal expense items or entertainment, unless authorized by law.

Use of Appropriated Funds

- Example: Must comply with the bona fide needs rule. May only use this FY O&M funds for a need of this FY. Do not permit the "banking" of O&M funds with other agencies even though they claim they can turn your expiring funds into multi-year funds. Currently a major issue and investigation with GSA's Information Technology Fund.
- Example: Assist the Contract Office to provide proper oversight on your Purchase Card program. The Purchase Card can be used in such away that it violates the Purpose Statute and the bona fide needs rule. In addition, we must be vigilant not to permit violations of the rules applicable to the Purchase card itself, e.g. splitting requirements to stay under the $2,500 purchase limit per transaction.

Labor and Employment Law

- Robinson v. England
  - Alleging pattern and practice of discrimination in personnel practices at MCLB Albany.

Robinson v. England

- Currently in discovery.
- Looking into possible loss of documents.
- Potential liability is several million dollars.
- Significant expenses associated with defense of suit.

"No Fear" Act

- "Notification and Federal Employee Anti-Discrimination and Retaliation Act"
- Takes effect 1 Oct 03
- Awards in discrimination cases will come from Agency/Activity funds vice DOJ judgment fund. Big impact on installation O&M dollars.

Ethics

- Fundraising
- Gifts
- Coins
- Spousal travel
- Conferences

Fundraising

- DoD Official Fundraising – JER 3-210
  - Fundraising in an official capacity includes CFC, Navy-Marine Corps Relief

- Fundraising in a Personal Capacity
  - General Rule – No personal fundraising because it disrupts the workplace, competes with CFC, and invites abuse of power by superiors or attempts to curry favor by subordinates.
  - Exception if fundraising organization is made up of Marines and family members and fundraising is among themselves, on-base, with CO's permission.

- Girl Scout Cookies, ETC.
  - No Solicitation in the workplace
  - Okay to leave by coffee mess with sign up

Gifts

- Gifts from Outside Sources
  - Basic Rule: Can’t Accept
  - Exclusions: Greeting cards, plaques, coffee & Donuts, military discounts
  - Exceptions:
  - <$20 per occasion; < $50 per year from the same source
  - Certain awards
  - Certain foreign gifts and entertainment

Gifts (Cont.)

- Gifts to the Command or Marine Corps
  - Must be unsolicited
  - Forward to Acceptance Authority
  - Consumable/perishable items may be shared with office (food/flowers)
  - If prohibited (alcohol, tobacco) decline/return

Spousal Travel

General Rule – Spouses may not travel at gov't expense

- Exceptions (require prior approval):

  (1) Can accompany for an **unquestionably official function** where the family member is actually to participate in an **official capacity**, or such travel is deemed in the national interest because of a diplomatic or public relations benefit to the United States.

* Can be approved for official functions such as GOS or command visits where spouses participate in official briefings and meetings and the Marine Corps receives a benefit.

Payment for Refreshments at Conferences

- Recent Comptroller General decision provides that appropriated funds cannot be used to pay for light refreshments at conferences.
- Only exception is if the hotel provides the refreshments incident to renting the facility (there is no separate charge).
- Too hard to go over rules here – one day class. Just enough to know that there are no free lunches.

Conclusion/Recap

No matter what the ethics issue may be, if you're not sure what to do, it's always a good idea to check with your ethics counselor in advance.

Questions ?